

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SOUTHERSBY DEVELOPMENT
CORPORATION,

Plaintiff,

v.

TOWNSHIP OF SOUTH PARK, MICHAEL
G. WARGO, in his individual and official
capacity, HERBERT, ROWLAND &
GRUBIC, INC., AND SCOTT
SWANSINGER,

Defendants.

Civil Action No. 14-1248

Judge Nora Barry Fischer

ORDER

AND NOW, this 16th day of September, 2014, upon consideration of Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunctive Relief (Docket No. [3]), Brief In Support (Docket No. [4]), and § III.C. of this Court's Practices and Procedures, which expressly provides that "in an injunction and/or temporary restraining order situation, the moving party

must establish that serious efforts were made to contact the opposing party or its counsel prior to seeking relief, supported by the Fed.R.Civ.P.65(b) affidavit regarding the same.

Otherwise, the Court will not hold a hearing on the matter or issue a temporary restraining order," Rule 65(b) of the Federal Rules of Civil Procedure, which likewise provides that "[t]he court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if ... (B) **the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required**," and finding that Plaintiff's

counsel has not filed such a certification in support of the pending motions and that there is no indication in the filings that any attempts have been made to notify the opposing parties,

IT IS HEREBY ORDERED that Plaintiff's Motion for Temporary Restraining Order and Motion for Preliminary Injunction [3] is DENIED, without prejudice.

Additionally, the Court recognizes that Plaintiff avers that it is relying upon its Complaint alleging civil violations of Racketeering Influenced and Corrupt Organizations Act, ("RICO"), 18 U.S.C. § 1961 et seq., in support of its Motion for Temporary Restraining Order and Preliminary Injunction. Local Rule 7.1.B. of the Local Rules of Court for the Western District of Pennsylvania of Court requires the filing of a RICO Case Statement in support of any RICO claim and "[i]n a civil RICO case, the RICO case statement is part of the pleadings." *Aluminium Bahrain B.S.C. v. Dahdaleh*, CIV. 8-299, 2014 WL 1681494 (W.D. Pa. Apr. 28, 2014).

IT IS FURTHER ORDERED that the Motion for Temporary Restraining Order and Motion for Preliminary Injunction is likewise DENIED to the extent Plaintiff relies on its RICO claims in the Complaint, which are procedurally insufficient due to the failure to comply with Local Rule 7.1.B.

IT IS THUS FURTHER ORDERED that Plaintiff shall file its RICO Case Statement within fourteen days of its filing of the Complaint on September 12, 2014 as required by Local Rule 7.1.B or any RICO claims will be stricken from the record.

s/Nora Barry Fischer
Nora Barry Fischer
United States District Judge

cc/ecf: All counsel of record